

AO 91 (Rev. 11/11) Criminal Complaint

## UNITED STATES DISTRICT COURT

for the

Western District of New York

United States of America

v.

BENJAMIN BOLTON

Case No.

22-MJ-60

*Defendant(s)*

## CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of April 10, 2022 in the county of Erie and elsewhere in the  
Western District of New York, the defendant(s) violated:

*Code Section**Offense Description*Title 18, United States Code,  
Section 875(c)Transmitting a communication containing a threat to injure another in  
interstate commerce

This criminal complaint is based on these facts:

See the attached affidavit of FBI Special Agent Jared Fitzgerald.

☒ Continued on the attached sheet.

*Complainant's signature*

Jared Fitzgerald, FBI Special Agent

*Printed name and title*

Sworn to telephonically by the affiant.

Date: 04/12/2022

*Judge's signature*City and state: Buffalo, New York

Hon. H. Kenneth Schroeder, U.S.M.J.

*Printed name and title*

**AFFIDAVIT IN SUPPORT OF APPLICATION**

STATE OF NEW YORK    )  
COUNTY OF ERIE        )       SS:  
CITY OF BUFFALO        )

**INTRODUCTION**

I, JARED FITZGERALD, Special Agent of the Federal Bureau of Investigation, United States Department of Justice, having been duly sworn, states as follows:

1. I am a Special Agent of the Federal Bureau of Investigation (“FBI”) of the United States Department of Justice. As such, I am an “investigative or law enforcement officer of the United States” within the meaning of 18 U.S.C. § 2510(7), that is, an officer of the United States who is empowered by law to conduct investigations of and to make arrests for offenses enumerated in 18 U.S.C. § 2516.

2. I have served as an FBI Special Agent since December 2020 and am currently assigned to the FBI Safe Streets Task Force<sup>1</sup> (“FBI-SSTF”) in Buffalo, New York. During that time, I have participated in investigations involving human, drug, and weapons trafficking, neighborhood based street gangs, organized crime matters, and crimes including violent criminal matters including investigations that utilized the execution of arrest warrants of persons and search warrants on residences and vehicles. Over the course of those investigations, I have conducted interviews of witnesses and subjects, supervised and handled

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<sup>1</sup> The FBI-SSTF is comprised of Agents and Investigators from the Federal Bureau of Investigation, Immigration and Customs Enforcement, Erie County Sheriff's Office, New York State Parole, NFTA Police Department, Lackawanna Police Department, and the Buffalo Police Department.

confidential informants, participated in and supervised physical and electronic surveillance, utilized pen registers and trap and trace devices, executed search and arrest warrants, and conducted consensually-recorded telephone calls between confidential informants and subjects. In addition, I have had the opportunity to work with several other FBI Special Agents and other law enforcement agents and officers of varying experience levels. My investigative experience detailed herein, and the experience of other law enforcement agents who are participating in this investigation, serve as the basis for the opinions and conclusions set forth herein.

3. This investigation is being conducted by Special Agents of the FBI and other law enforcement personnel assigned to the FBI-SSTF. Your Affiant is fully familiar with the facts and circumstances of this investigation, from both my personal knowledge based upon my participation in this investigation, as well as from statements by and/or reports provided to me by law enforcement personnel of the FBI-SSTF and other law enforcement agencies.

4. This affidavit is being submitted in support of (1) a Criminal Complaint charging BENJAMIN BOLTON with violating Title 18, United States Code, Section 875(c), transmitting a communication containing a threat to injure another in interstate commerce on or about April 10, 2022, and (2) a search warrant to search BOLTON's residence at 56 Applewood Lane, Getzville, New York, 14068, as more particularly described in Attachment A (hereinafter the "Target Residence") for evidence, fruits and instrumentalities of this crime as more particularly described in Attachment B. Because this affidavit is being submitted for the limited purpose of establishing probable cause for the requested search warrant and criminal complaint, I have not presented all of the facts of this investigation to date. Rather,

I have set forth sufficient information to establish probable cause for the requested criminal complaint and search warrant.

**PROBABLE CAUSE**

5. In September 2016, BOLTON pleaded guilty to violating Title 18, United States Code, Section 875(c), transmitting a communication containing a threat to injure another in interstate commerce before United States District Judge Lawrence J. Vilardo of the Western District of New York. In his plea agreement, BOLTON admitted to making a series of threatening calls in August 2015 to four separate victims in the Buffalo, New York area and where BOLTON threatened to assault police officers, faculty and staff associated with Buffalo State University. On or about December 19, 2016, Judge Vilardo sentenced BOLTON to 30 months imprisonment to be followed by three years of supervised release. On or about September 11, 2019, BOLTON's supervised release was revoked and BOLTON was sentenced by Judge Vilardo to 12 months imprisonment with no additional term of supervised release to follow.

6. According to a February 3, 2022, Amherst Police Department (APD) police report, a member of Erie County Crisis Services met with BOLTON after recently moving back to the Buffalo, New York area and more specifically, moving in with his mother at the Target Residence. According to the APD report, BOLTON indicated to APD officers that he does not like police. That APD report also reflects that members of APD had contact with BOLTON in early December 2021 regarding an alleged aggravated harassment via phone incident conducted by BOLTON.

7. On March 18, 2022, around 11:53 a.m., APD officers responded to reports of a male walking out of the woods and carrying a long rifle in the vicinity of 3020 Sweet Home Road in Amherst, New York, which is near a nature view parking lot. This location is approximately four miles from the Target Residence. The complainant on the police report observed this male open the trunk of a black Toyota Corolla with New York registration KVA 2152 and place the suspected firearm inside the vehicle. The complainant took a photo of the back of the vehicle with the license plate. As the complainant was backing out of her parking space, the male pulled up alongside the complainant's car and began yelling at the complainant. After they began driving, the male began tailgating the complainant's vehicle, pulled into a 7-11 convenience store lot, exited the vehicle on foot and yelled obscenities at the complainant. The complainant then fled the area.

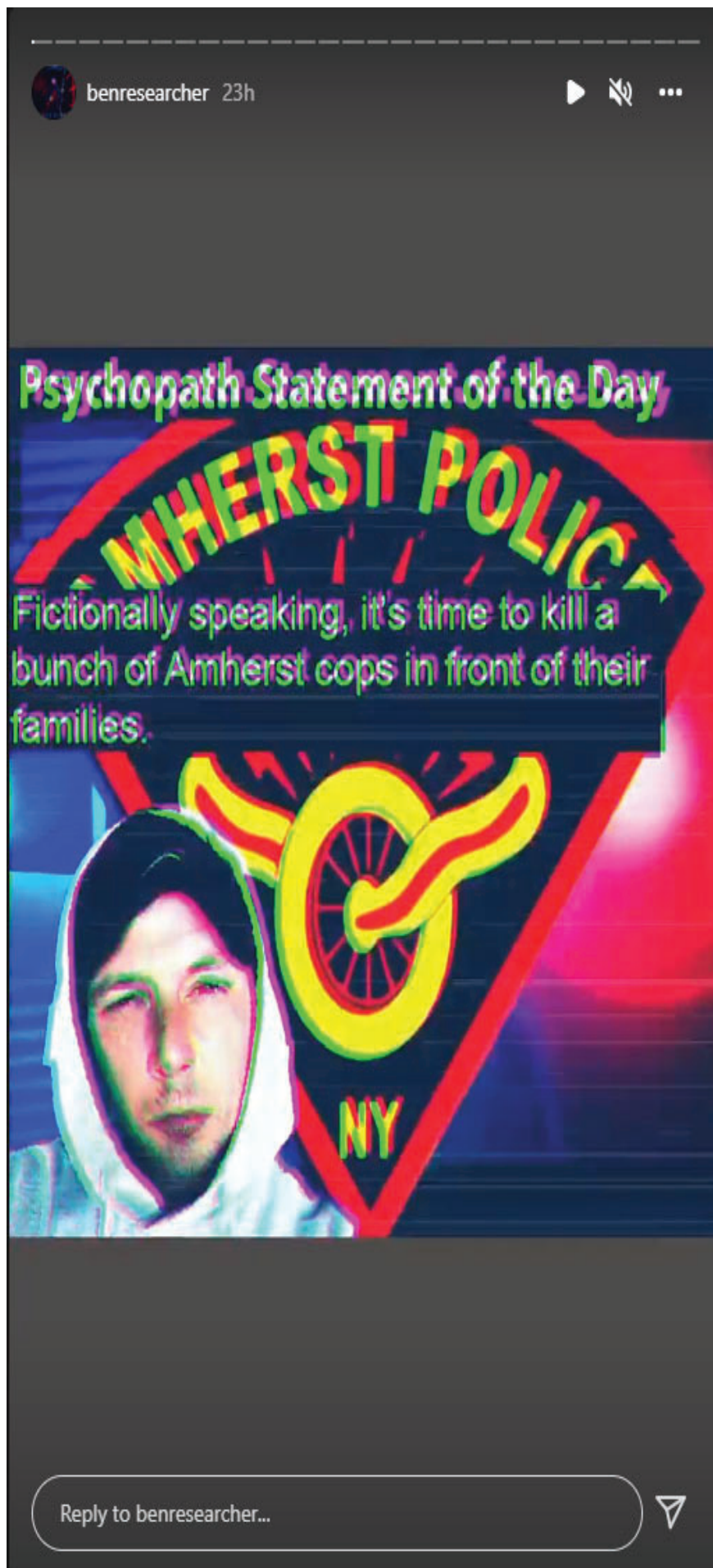
8. In response to this call, APD officers searched for, and located, the black Toyota Corolla bearing New York registration KVA 2152. The Corolla was parked and unoccupied and was back at the nature view parking lot. Law enforcement stayed on location to await the unidentified male's arrival. Around 2:15 p.m., APD officers observed and identified BOLTON, who exited the woods with a suspected long gun. BOLTON told officers that what he had was a BB gun, and law enforcement verified that the suspected rifle was a BB gun. Law enforcement then advised BOLTON of the town ordinance that individuals are prohibited from carrying firearms in certain areas of the township, and BOLTON left the area.

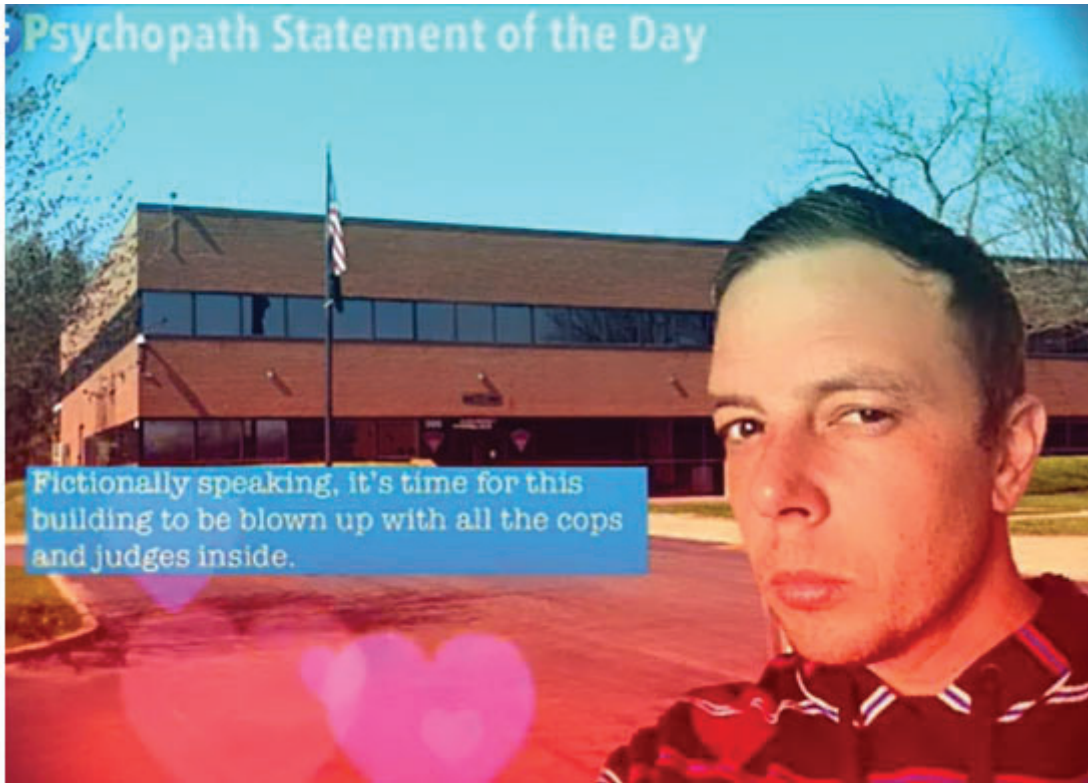
9. On April 8, 2022, APD officers responded to the Starbucks located at 960 Transit Road, Amherst, New York, in response to a menacing call. The victim of the

menacing report told APD officers that a black Toyota Corolla bearing New York registration KVA 2152, had “cut off” the victim as they were trying to enter the Starbucks drive-thru. As the victim attempted to drive around the Toyota Corolla, the victim saw the Corolla’s driver pointing what appeared to be a handgun out of the window and at the victim. The victim then fled the area and called 911. In response to this 911 call, APD located the black Toyota Corolla with New York registration KVA 2152 and stopped the vehicle in the vicinity of Dodge Road near Glen Oak Road. The driver of the vehicle was taken into custody and identified as BOLTON. BOLTON then told officers, “I have a BB gun in the glovebox,” but denied pointing it at anyone. APD officers located the BB gun inside of the glove box and arrested BOLTON, charging him with the New York crimes of criminal possession of a weapon in the third degree and menacing in the second degree. Those charges are pending.

10. In the hours and days after the April 8, 2022 incident, BOLTON posted certain communications on his Instagram and Twitter accounts threatening members of the APD. One such post was posted on April 10, 2022 to BOLTON’s Instagram account which uses the username “benresearcher.” Across the top of BOLTON’s post, the post reads “Psychopath Statement of the Day.” The background of the post contains a logo/shoulder patch of APD and along with a picture of BOLTON, the post reads, “Fictionally speaking, it’s time to kill a bunch of Amherst cops in front of their families.” BOLTON made another post on April 10, 2022 to his same Instagram account with username “benresearcher.” The top of this post from BOLTON also reads “Psychopath Statement of the Day.” The background of the post contains a photograph of which appears to be the Amherst Police Department along with a picture of BOLTON, and the post reads, “fictionally speaking, It’s time for this building to be blown up with all the cops and judges inside.” Both of these posts are reproduced below:







11. A review of BOLTON's Twitter account, username @BenjaminJBolton, contains a post from April 10, 2022 that referenced the APD and appears to reference his arrest on April 8, 2022, along with a meme reading "you are so dumb." On April 10, 2022, BOLTON made a subsequent post using his Twitter account, username @BenjaminJBolton, which threatened APD and used same language as in his Instagram post, stating "I'm going to kill a bunch of Amherst cops in front of their families." A copy of these two posts are reproduced below:

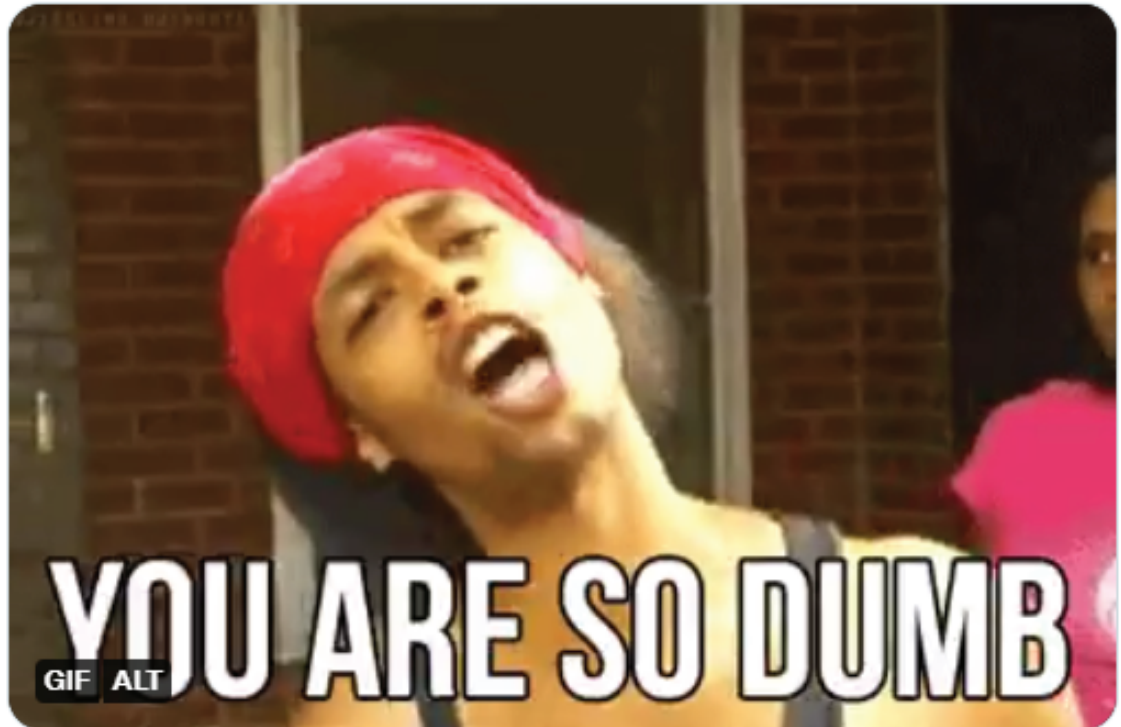




**Benjamin J. Bolton** @BenjaminJBolton · 22h

...

The Amherst Police Department just used one of their cop lovin' buddies to call 📞 911 and make up a reason to pull me over.





**Benjamin J. Bolton** @BenjaminJBolton · Apr 10

...

Fictionally speaking, I'm going to kill a bunch of Amherst cops in front of their families.



12. Instagram is a company owned by META which is headquartered at 1601 Willow Road, Menlo Park, California. Twitter is a company headquartered 1355 Market Street, Suite 900, San Francisco, California. As such, any communications posted by BOLTON to his Twitter and/or Instagram accounts would have traveled in interstate commerce since they were both made by using the internet.

**BOLTON'S CONNECTION TO, AND EVIDENCE BELIEVED TO BE AT,**  
**THE TARGET RESIDENCE**

13. A check with the New York Department of Motor Vehicles on April 11, 2022 revealed that the previously described Toyota Corolla bearing New York registration KVA 2152 which was operated by BOLTON and referenced in APD police reports dated March 18, 2022 and April 8, 2022, is registered to BOLTON's mother, Patricia Bolton at 56 Applewood Lane, Getzville, New York, 14068 (the Target Residence).

14. On February 2, 2022, APD was informed that BOLTON recently moved back to BOLTON's mother's house, the Target Residence. Furthermore, the APD police reports regarding the previously described incidents from March 18, 2022 and April 8, 2022, both list BOLTON's address as the Target Residence, namely, 56 Applewood Lane, Amherst, New York, 14068. On the evening of April 11, 2022, law enforcement agents observed an individual matching the physical description of BOLTON, driving the Toyota Corolla bearing New York registration KVA 2152, arrive back at the Target Residence.

15. Based on my training and experience, I believe that BOLTON is using the Target Location as a location to store any records, documents, and electronic devices, such as smart phones and/or computers that he used in connection with this violation of Title 18, United States Code, Section 875(c). I have learned through my training and experience that individuals access various social media websites and mobile applications, such as Instagram and Twitter, via cellular "smart" phones, desktop computers, tablets, and laptop computers. Users of these social media sites can also access these sites by multiple devices at the same time. Based on my training and experience, I know that cellular "smart" phones and similar

electronic devices are ubiquitous in today's society, with many (if not most) people owning and using multiple types of electronic devices on a daily basis. Such electronic devices are routinely used to connect to the internet where users can, amongst other things, access social media sites such as Facebook and Instagram.

16. Based upon my training and experience, and conversations with, and training from, other officers and agents involved in investigating those who delivered threats to injure another through interstate commerce, I also believe the following:

17. Those who make threats to injure through interstate commerce often maintain records that reflect names, addresses, and/or telephone numbers of their targets and victims, and it is common to find that such records are maintained in cellular telephones and other electronic devices and storage mediums. Indeed, cellular telephones and digital devices are often used to deliver the threats through interstate commerce.

18. Those making threats to injure through internet commerce often maintain evidence of their criminal activity at locations that are convenient to them, such as at their residence. This evidence often includes research related to their targets and victims and other documentary evidence relating to commission of their crimes. Those making threats through interstate commerce sometimes take or cause to be taken photographs and/or video recordings of themselves and their illegal activity and usually maintain these photographs and recordings in their possession, at their premises, or at some other safe place.

19. Those making threats to injure through interstate commerce often maintain weapons, including guns and ammunition, in secure locations such as their residences and vehicles.

20. Those who make threats to injure through interstate commerce often use cellular telephones as a tool or instrumentality in committing their criminal activity. They prefer cellular telephones because, first, they can be purchased without the location and personal information that land lines require. Second, they can be easily carried to permit the user maximum flexibility in avoiding police surveillance and in traveling. Since cellular phone use became widespread, many individuals have a cellular telephone as their only telephone. Based on my training and experience, the data maintained in a cellular telephone used by someone who is making threats to injure through interstate commerce is evidence of a crime or crimes. This includes the following:

a. The assigned number to the cellular telephone (known as the mobile directory number or MDN), and the identifying telephone serial number (Electronic Serial Number, or ESN), (Mobile Identification Number, or MIN), (International Mobile Subscriber Identity, or IMSI), or (International Mobile Equipment Identity, or IMEI) are important evidence because they reveal the service provider, allow us to obtain subscriber information, and uniquely identify the telephone.

b. The stored list of recent received calls and sent calls is important evidence. It identifies telephones recently in contact with the telephone user. This is valuable information in a threat investigation because it will identify targets and victims, and it confirms the date and time of contacts.

c. Stored text messages are important evidence, similar to stored numbers. Agents can identify both drug associates and friends of the user who likely have helpful information about the user, his location, and his activities.

d. Photographs on a cellular telephone are evidence because they help identify the user, either through his or her own picture, or through pictures of friends, family, and associates that can identify the user. Pictures also identify associates likely to be members of the drug trafficking organization. Some drug dealers photograph groups of associates, sometimes posing with weapons and showing identifiable gang signs. Also, digital photos often have “geocode” information embedded in them. Geocode information is typically the longitude and latitude where the photo was taken. Showing where the photo was taken can have evidentiary value. This location information is helpful because, for example, it can show where the defendant and any possible coconspirators meet and where they travel,

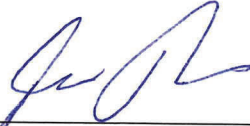
e. Internet history data and application data (such as that associated with Instagram or Twitter) is often stored on electronic devices including cellular phones, and this data can also identify the user of those accounts as well as provide evidence that shows the usage history of those applications by the user of the electronic device.

### **CONCLUSION**

Based on the facts articulated in this affidavit, I submit that probable cause exists to believe (1) that on or about April 10, 2022, BENJAMIN BOLTON violated Title 18, United States Code, Section 875(c), transmitting a communication containing a threat to injure another in interstate commerce and (2) that evidence of that crime will be located at BOLTON’s residence located at 56 Applewood Lane, Getzville, New York, 14068 (the



“Target Residence”), and request that the Court sign the requested criminal complaint and search warrant.



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JARED FITZGERALD  
Special Agent  
Federal Bureau of Investigation

Sworn to telephonically

this 12<sup>th</sup> day of April, 2022.



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HON. H. KENNETH SCHROEDER, JR.  
United States Magistrate Judge